

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA  
SPARTANBURG DIVISION

United States of America,	)	C/A No.: 7:07-cr-389-1
	)	
v.	)	
	)	
Charlayne Davis,	)	ORDER
	)	(Written Opinion)
Defendant.	)	
_____	)	

This matter comes before the Court on the defendant's *pro se* motion to modify her sentence, pursuant to 18 U.S.C. § 3582(c)(2), filed on April 4, 2008. Defendant argues that she is entitled to a modification of her sentence from 15 months to 12 months because her sentence was rendered on the basis of a sentencing guideline range which has subsequently been lowered by the sentencing commission and made retroactive on March 3, 2008.

Plaintiff brings this claim *pro se*. This Court is required to construe *pro se* pleadings liberally. Such pleadings are held to a less stringent standard than those drafted by attorneys. *See Gordon v. Leeke*, 574 F.2d 1147, 1151 (4th Cir. 1978). This Court is charged with liberally construing a pleading filed by a *pro se* litigant to allow for the development of a potentially meritorious claim. *See Boag v. MacDougall*, 454 U.S. 364, 365 (1982).

The defendant pled guilty to embezzling over \$100,000 in violation of 18 U.S.C. § 656. The base offense level for this crime is 7 pursuant to U.S.S.G. § 2B1.1(a)(1). The defendant's base offense level was enhanced 8 points pursuant to §

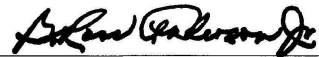
2B1.1(b)(1)(e) because the total loss exceeded \$70,000. Defendant's offense level was also enhanced 2 points for abusing a position of trust pursuant to § 3B1.3. This offense level was then reduced 3 points for acceptance of responsibility under § 3E1.1(a) & (b). This left the defendant with a total adjusted offense level of 14.

None of the retroactive amendments effective March 3, 2008, apply to the advisory guidelines the Court consulted and considered when sentencing the defendant. U.S.S.G. § 1B1.10(c) (list of retroactive amendments). Therefore, the defendant's motion is DENIED. In light of this ruling, the defendant's motion for appointed counsel for this motion is DENIED as moot.

IT IS THEREFORE SO ORDERED THAT the defendant's motion be DENIED.

IT IS FURTHER ORDERED THAT THE defendant's motion for appointed counsel be DENIED.

IT IS SO ORDERED.



G. ROSS ANDERSON, JR.  
UNITED STATES DISTRICT JUDGE

April 8, 2008  
Anderson, South Carolina

#### **NOTICE OF RIGHT TO APPEAL**

Pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure, Defendant has the right to appeal this Order within sixty (60) days from the date of its entry. Failure to meet this deadline, as modified by Rule 4 of the Federal Rules of Appellate Procedure, **will waive the right to appeal.**